

Decision 97-01-046 January 23, 1997

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of SPRINT
COMMUNICATIONS COMPANY L.P. (U-5112-C) for
Arbitration of Interconnection Rates, Terms, Conditions,
and Related Arrangements with Pacific Bell.

Application 96-09-043
(Filed September 26, 1996)

OPINION

ORIGINAL

Background

On April 20, 1996, Pacific Bell received Sprint Communications Company, L. P.'s (Sprint) request for negotiations to establish an interconnection agreement pursuant to Section 252 of the Telecommunication Act of 1996. On September 26, 1996, Sprint filed an Application for Arbitration regarding those issues on which Sprint and Pacific Bell had been unable to agree. Pacific Bell filed its response on October 21, 1996. Hearings were held during late October and early November 1996. Closing briefs were filed by the parties on November 27, 1996.

The arbitrator's report was filed on December 17, 1996. The parties were directed to file their arbitrated agreement by December 26, 1996. Finally, the parties filed comments on both the arbitrator's report and the arbitrated agreement on January 6, 1997. Other than the parties, no other members of the public filed comments on either the arbitrator's report or on the arbitrated agreement.

Both the Telecommunications Act of 1996 and our Rules (Resolution ALJ-168) provide that the Commission has 30 days to either accept or reject the arbitrated agreement filed on December 26, 1996.

Standard for Review

Rule 4.2.4 of the Commission's Rules Governing Filings made pursuant to the Telecommunications Act of 1996 provides the basic standard for review of interconnection agreements reached by arbitration. A secondary standard is whether or not the arbitrated agreement has incorporated the award of the arbitrator. Rule 4.2.4 provides:

"Pursuant to Subsection 252(3)(2)(B), the Commission may reject arbitrated agreements or portions thereof that do not

meet the requirements of Section 251, the FCC's regulations prescribed under Section 251, or the pricing standards set forth in Subsection 252(d). Pursuant to Subsection 252(e)(3), the Commission may also reject agreements or portions thereof which violate other requirements of the Commission, including, but not limited to, quality of service standards adopted by the Commission."

Agreement

The arbitrator's report made awards on several sets of issues as outlined below:

- Pricing issues including resale services and aggregation
- Resale terms and conditions
- Reservation of future capacity
- Customer proprietary network information
- Directory billing
- Unbranding operator services
- NXX dialing parity
- Operation support systems
- Toll Fraud

Both parties jointly filed an arbitrated agreement which contained no competing language. The agreement as filed appears to have incorporated all awards made by the arbitrator.

Comments

Each of the parties filed a single document which was a consolidated set of comments on both the arbitrator's report and the arbitration agreement. Both documents are very similar. The gist of the comments is that parties believe that the arbitrated agreements comply with Sections 251 and 252 of the Act. Both parties support the agreement and do not contest or seek reversal of the arbitrator's report.

However, both parties indicate that they are not completely satisfied with the arbitrator's report nor with the arbitrated agreement. The parties indicate that they are willing to support the arbitrated agreement and to conduct business under the agreement, but that both parties will continue to advocate for different outcomes on various issues in other commission proceedings. If the commission arrives at different outcomes in subsequent decisions the arbitrated agreement will be so modified.

No members of the public other than the parties to this negotiation filed comments on the arbitrator's report or on the arbitrated agreement.

Findings of Fact

1. On September 26, 1996, Sprint filed an application for arbitration pursuant to the Act.
2. An arbitrator's report resolving remaining issues of the negotiation was filed on December 17, 1996.
3. An arbitrated agreement was jointly filed by the parties on December 26, 1996.
4. The arbitrated agreement incorporates the awards contained in the arbitrator's report.
5. The arbitrated agreement complies with Sections 251 and 252 of the Act.
6. No other member of the public contests the approval of the arbitrated agreement.

Conclusion of Law

The arbitrated agreement jointly filed by Sprint and Pacific Bell should be approved.

ORDER

IT IS ORDERED that:

1. Pursuant to the Telecommunications Act of 1996 and Resolution ALJ-168, the Interconnection Agreement reached through arbitration jointly filed on December 26, 1996, by Sprint Communications Company, L. P. and Pacific Bell is approved.

2. Application 96-09-043 is closed.

This order is effective today.

Dated January 23, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners